

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

**WILLIAM ERNEST TAYLOR,
Plaintiff,**

v.

Case No. 12-CV-00488

**SIEGEL MARKETING GROUP,
Defendant.**

DECISION AND ORDER

Pro se plaintiff William Taylor filed this lawsuit under 42 U.S.C. § 1983 on May 17, 2012. On May 23, 2012, I granted his motion for leave to proceed in forma pauperis and ordered the United States Marshals Service to serve a copy of the complaint and summons upon defendant. Unfortunately, the clerk's office failed to timely deliver a copy of the complaint and summons to the Marshals Service. As a result, service was not completed until December 19, 2012. Defendant now moves to dismiss the complaint because plaintiff failed to complete service within the 120 days allowed under Fed. R. Civ. P. 4(m). I will deny the motion. A court must extend the time for service under Rule 4(m) if a plaintiff shows good cause for the failure to timely serve a defendant. Fed. R. Civ. P. 4(m). There was good cause for the delay in service because it was the fault of this court and not plaintiff. See *Graham v. Satkoski*, 51 F.3d 710, 712–13 (7th Cir. 1995) (noting that an in forma pauperis plaintiff has a right to rely on the Marhals Service to serve defendants once the plaintiff has provided the necessary information). I will, however, dismiss this case for lack of prosecution if plaintiff does not file a notice with the court by April 22, 2013 stating that he still wishes to pursue his claim against defendant. This is because plaintiff has not

made any effort to prosecute his claim since filing his complaint. He did not alert the court to the problem with service and he failed to respond to defendant's motion to dismiss.

THEREFORE, IT IS ORDERED that defendant's motion to dismiss (Docket #9) is **DENIED**.

IT IS FURTHER ORDERED that plaintiff has until **April 22, 2013** to inform the court if he wishes to pursue this lawsuit. If plaintiff does not contact the court by that date, the case will be dismissed.

Dated at Milwaukee, Wisconsin, this 3rd day of April 2013.

s/ Lynn Adelman

LYNN ADELMAN
District Judge